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11 City of Burbank

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES

15 CHRISTOPHER LEE DUNN,

Case No. BC 417928

16 Plaintiff,

17 v.

18 BURBANK POLICE DEPARTMENT,
CITY OF BURBANK, and DOES 1
19 Through 100, Inclusive,

**DEFENDANT'S APPLICATION TO FILE
EXHIBITS TO THE DECLARATION OF
KRISTIN A. PELLETIER IN SUPPORT OF
DEFENDANT'S MOTION TO COMPEL
DEPOSITION OF JANE DOE UNDER SEAL**

Date: May 12, 2010
Time: 8:30 a.m.
Dept.: 31

20 Defendants.

[Honorable Alan S. Rosenfield, Dept. 31]

Action Filed: July 28, 2009
Trial Date: August 27, 2010

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25 PLEASE TAKE NOTICE that Defendant City of Burbank ("the City") will, and hereby
26 does, move this Court for an Order that Exhibits A through L to the Declaration of Kristin A
27 Pelletier in Support of Defendant's Motion to Compel Deposition of Jane Doe be filed under seal.

28 ///

LA #4836-2297-6517 v1

- 1 -

DEFENDANT'S APPLICATION TO FILE EXHIBITS TO THE DECLARATION OF KRISTIN A. PELLETIER
IN SUPPORT OF DEFENDANT'S MOTION TO COMPEL DEPOSITION OF JANE DOE UNDER SEAL

1 The City is not required to comply with *California Rules of Court* 2.550-2.551 because
2 CRC Rule 2.550 (a) (3) states

3 "These rules do not apply to discovery motions and records filed or
4 lodged in connection with discovery motions or proceedings."

5 *Id.*

6 Nonetheless the City requests the filing of these documents under seal for the following
7 reasons. These Exhibits concern and name the deponent who is a former police informant who
8 has requested (in another matter) that her identity not be disclosed in court papers. The City is
9 not legally required to comply with this request since it alone is allowed to determine whether the
10 identity of an informant is revealed. However, the City has gratuitously complied with this
11 request in the other matter and is willing to do so in this case for purposes of the instant motion.

12 *Evidence Code* § 1041(a) provides that "a public entity has a privilege to refuse to disclose
13 the identity" of a confidential informant. Moreover, "[t]he Supreme Courts of both California
14 and the United States long ago recognized that the government held a privilege against disclosing
15 the identity of police informants." *People v. Navarro*, 138 Cal.App.4th 146, 163 (2006). In
16 short, it is the City that decides whether the names of former confidential informants should be
17 disclosed to the public.

18 Therefore, although the City is not required by law to keep the deponent's name
19 confidential, it is willing to do so for purposes of the instant motion, and on that basis requests the
20 Court issue an order sealing Exhibits A through L to the Pelletier Declaration.

21 Dated: April 16, 2010

Burke, Williams & Sorensen, LLP
Kristin A. Pelletier

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23
24 By: 

Kristin A. Pelletier
Attorneys for Defendant
City of Burbank

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PROOF OF SERVICE

I, Julie D. Anderson, declare as follows:

1. I am employed in the County of Los Angeles, State of California and am over the age of 18 and not a party to the within action. My business address is: 444 South Flower Street, Suite 2400, Los Angeles, California 90071.

2. On April 16, 2010 I served the foregoing document described as ***Defendant's Application to File Exhibits to the Declaration of Kristin A. Pelletier in Support of Defendant's Motion to Compel Deposition of Jane Doe Under Seal*** on interested parties in this action by placing a true copy or original thereof enclosed in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Telephone: (818) 815-2727
Fax: (818) 815-2737

David I. Diamond, Esq.
Law Offices of Diamond & Associates
1055 Wilshire Boulevard, Suite 1996
Los Angeles, CA 90017

☐ BY MAIL I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ BY FEDERAL EXPRESS I caused such documents to be served via Federal Express to the office of the addressee.

☐ BY PERSONAL SERVICE I caused such envelope to be delivered by hand to the office of the addressee.

☐ BY TELEFACSIMILE I caused such documents to be served via facsimile transmittal to the office of the addressee.

☒ STATE ☐ FEDERAL

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct and if called upon, I could and would competently testify thereto.

Executed on April 16, 2010 Los Angeles, California.

JULIE D. ANDERSON

LA #4833-1010-8678 v1

PROOF OF SERVICE